



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

April 7, 2014

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To: Supervisor Don Knabe, Chairman
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From: William T Fujioka
Chief Executive Officer

MOTION TO OPPOSE AB 1881 (SUPPLEMENTAL AGENDA ITEM NO. 54-A, MEETING OF APRIL 8, 2014)

Item No. 54-A on the April 8, 2014 Supplemental Agenda is a motion by Supervisor Knabe to instruct the Chief Executive Officer and the Sacramento Advocates to oppose AB 1881 (Jones-Sawyer), legislation that would mandate specific changes to the employee relations commissions of the County of Los Angeles and the City of Los Angeles.

Background

Current law grants the California Public Employment Relations Board (PERB) specified powers and duties in connection with labor relations between employees and management of most public agencies, including making unit determinations in disputed cases and supervising representation elections. Existing law excepts the County of Los Angeles and the City of Los Angeles from PERB authority, providing instead that the employment relations commissions in those two jurisdictions are responsible for these functions.

The County's Employee Relations Commission (ERCOM) was established in 1968 as an independent body to make determinations relating to local labor issues. Most recently, on September 17, 2013, the Board approved the restructuring of ERCOM to provide both management and the unions stronger input into the commission's makeup and to increase commissioner compensation in order to attract more qualified candidates. Under the current County ordinance, three commissioners are to be selected, one each, from three lists: 1) a list submitted by the Chief Executive Office (CEO); 2) a list submitted by a committee of certified employee organizations; and 3) a list jointly submitted by the CEO and a committee of certified employee organizations.

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AB 1881 (Jones-Sawyer)

On March 28, 2014, AB 1881 (Jones-Sawyer) was gutted and amended to include provisions that prescribe requirements for appointments to the employee relations commissions of the County of Los Angeles and the City of Los Angeles. Specifically, for the County the bill would:

- Require that a list of nominees for commissioners be jointly determined by the County's Chief Executive Officer and a committee of employee organizations;
- Require the list of commissioner nominees be submitted to the Board within 30 days before the expiration of a member's term, or within 30 days of a vacancy. Subsequently, the Board would be required to make an appointment within 30 days of receiving the list;
- Require that employee relation commissioners have at least five years of full-time experience exclusively as professional mediators;
- Prohibit a commissioner from consulting on employee relations matters, but they may act as a professional neutral party in other capacities;
- Prohibit the County, in contracting with a commission member or a hearing officer, from requiring them to agree to indemnify or hold the County harmless; and
- Provide that these provisions would be enforceable by a Writ of Mandate, a court order to a government agency to follow the law by correcting its prior actions or ceasing illegal acts.

Analysis

The Chief Executive Office Employee Relations Branch (CEO-ER) reports that AB 1881 would mandate significant changes in critical areas of the County's ERCOM structure, including prescriptive provisions on how nominees for commissioner are determined. CEO-ER indicates that the current commissioner nomination process, which was approved by the Board on September 17, 2013, was the result of almost a year consulting with County unions. While AB 1881 would require commissioners to have five years' experience as professional mediators, the County's ordinance does not, and instead, requires that they have expertise in the field of employee relations.

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The Chief Executive Office Employee Relations Branch further reports that the County's employee relations ordinance provides the Board with some flexibility and discretion on when they appoint commissioners, unlike the stricter time parameters of AB 1881. As to the bill's provisions prohibiting a commissioner from consulting on employee relations matters elsewhere, the County's ordinance differs in that it contains a conflict of interest provision that calls for a member to reclude themselves from any matter in which they have direct or indirect specific interest in. Additionally, AB 1881 would prohibit the County from requiring a hearing officer to indemnify the County. County Counsel indicates that the County's ordinance is silent on the matter of indemnification; however, as with most contract agreements between the County and third-parties, the agreements between the County and ERCOM hearing officers do require indemnification for the County.

The Chief Executive Office Employee Relations Branch and County Counsel note that long-standing statutes assign the County exclusive rights to exercise control and discretion over its organization, operations, and labor matters; therefore, the provisions of AB 1881 in prescribing how the County must appoint to and structure its employee relations commission would abridge the Board's local authority and responsibilities as the governing body of this Charter County.

Conclusion

This office and County Counsel recommend an oppose position on AB 1881, because it would preempt the Board's local authority and would nullify key provisions of the County's ERCOM ordinance which were recently updated to provide County management and employee organizations stronger input in the commission's makeup. Opposition to AB 1881 is consistent with Board approved policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board.

There is no registered support or opposition on file for AB 1881. The bill is scheduled to be heard in the Assembly Public Employees, Retirement, and Social Security Committee on April 23, 2014.

We will continue to keep you advised.

WTF:RA
MR:PC:ma

c: Executive Office, Board of Supervisors
County Counsel